

HENRY A. WAXMAN, CALIFORNIA  
CHAIRMAN

JOHN D. DINGELL, MICHIGAN  
CHAIRMAN EMERITUS  
EDWARD J. MARKEY, MASSACHUSETTS  
RICK BOUCHER, VIRGINIA  
FRANK PALLONE, JR., NEW JERSEY  
BART GORDON, TENNESSEE  
BOBBY L. RUSH, ILLINOIS  
ANNA G. ESHOO, CALIFORNIA  
BART STUPAK, MICHIGAN  
ELIOT L. ENGEL, NEW YORK  
GENE GREEN, TEXAS  
DIANA DEGETTE, COLORADO  
VICE CHAIRMAN  
LOIS CAPPS, CALIFORNIA  
MIKE DOYLE, PENNSYLVANIA  
JANE HARMAN, CALIFORNIA  
JAN SCHAKOWSKY, ILLINOIS  
CHARLES A. GONZALEZ, TEXAS  
JAY INSLEE, WASHINGTON  
TAMMY BALDWIN, WISCONSIN  
MIKE ROSS, ARKANSAS  
ANTHONY D. WEINER, NEW YORK  
JIM MATHESON, UTAH  
G.K. BUTTERFIELD, NORTH CAROLINA  
CHARLIE MELANCON, LOUISIANA  
JOHN BARROW, GEORGIA  
BARON P. HILL, INDIANA  
DORIS O. MATSUI, CALIFORNIA  
DONNA CHRISTENSEN, VIRGIN ISLANDS  
KATHY CASTOR, FLORIDA  
JOHN SARBANES, MARYLAND  
CHRISTOPHER MURPHY, CONNECTICUT  
ZACHARY T. SPACE, OHIO  
JERRY MCNERNEY, CALIFORNIA  
BETTY SUTTON, OHIO  
BRUCE BRALEY, IOWA  
PETER WELCH, VERMONT

ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6115

MAJORITY (202) 225-2927  
FACSIMILE (202) 225-2525  
MINORITY (202) 225-3641

[energycommerce.house.gov](http://energycommerce.house.gov)

May 4, 2009

JOE BARTON, TEXAS  
RANKING MEMBER

RALPH M. HALL, TEXAS  
FRED UPTON, MICHIGAN  
CLIFF STEARNS, FLORIDA  
NATHAN DEAL, GEORGIA  
ED WHITFIELD, KENTUCKY  
JOHN SHIMKUS, ILLINOIS  
JOHN B. SHADEGG, ARIZONA  
ROY BLUNT, MISSOURI  
STEVE BUYER, INDIANA  
GEORGE RADANOVICH, CALIFORNIA  
JOSEPH R. PITTS, PENNSYLVANIA  
MARY BONO MACK, CALIFORNIA  
GREG WALDEN, OREGON  
LEE TERRY, NEBRASKA  
MIKE ROGERS, MICHIGAN  
SUE WILKINS MYRICK, NORTH CAROLINA  
JOHN SULLIVAN, OKLAHOMA  
TIM MURPHY, PENNSYLVANIA  
MICHAEL C. BURGESS, TEXAS  
MARSHA BLACKBURN, TENNESSEE  
PHIL GINGREY, GEORGIA  
STEVE SCALESE, LOUISIANA

The Honorable John Bresland  
Chairman and Chief Executive Officer  
U.S. Chemical Safety and Hazard Investigation Board  
2175 K Street NW, Suite 400  
Washington, DC 20037

Dear Mr. Bresland:

As you know, the House Committee on Energy and Commerce and its Subcommittee on Oversight and Investigations are conducting an investigation into the events surrounding the August 28, 2008, explosion at the Bayer CropScience chemical plant in Institute, West Virginia. In addition, the Senate Committee on Commerce, Science, and Transportation has been following closely your investigation into this deadly accident and is considering its implications for chemical plant safety across the country. We thank you for your testimony before the Oversight and Investigations Subcommittee on April 21, 2009, and we appreciate your ongoing work on this issue.

Our investigation has raised serious concerns about Bayer's use and storage of the highly toxic chemical, methyl isocyanate (MIC), at its facility in West Virginia. In 1984, MIC leaked from a Union Carbide plant in Bhopal, India, killing approximately 4,000 people and injuring thousands more.

After that tragedy, another chemical company, DuPont, changed its manufacturing processes to eliminate large stockpiles of MIC at its facilities. Bayer did not do the same, however, and its plant in West Virginia remains the only chemical facility in the United States that still uses and stores large volumes of this deadly chemical.

As you testified at the hearing on April 21, the explosion last year at the Bayer plant occurred approximately 80 feet from the company's 18-ton above-ground storage tank of MIC. The explosion caused an over-pressurized vessel to hurtle violently through the facility, destroying virtually everything in its path. If this vessel had struck the MIC tank, the results

The Honorable John Bresland  
May 4, 2009  
Page 2

could have been a disaster worse than 1984 Bhopal accident, endangering Bayer employees, emergency first responders, and residents of the surrounding community.

We believe it is past time to consider whether Bayer's continued use and storage of MIC can be justified in light of the health and safety risks it presents to the surrounding community.

Under the Clean Air Act, the Chemical Safety Board has the authority to recommend measures "to reduce the likelihood or the consequences of accidental releases" and propose corrective steps "to make chemical production, processing, handling and storage as safe and free from risk of injury as is possible." The Board also has the authority to "conduct research and studies with respect to the potential for accidental releases, whether or not an accidental release has occurred, where there is evidence which indicates the presence of a potential hazard or hazards." We ask that you exercise this broad authority in this critical case.

Specifically, we ask that the Board:

1. Conduct an investigation to determine options for Bayer to reduce or eliminate the use or storage of MIC at its West Virginia facility by switching to alternative chemicals or processes and the estimated cost of these alternatives;
2. Determine whether Bayer has adequately examined the feasibility of switching to alternative chemicals or processes;
3. Provide in its final report specific recommendations for Bayer and its state and federal regulators on how to reduce the dangers posed by on-site storage of MIC; and
4. Brief our staff on the Board's findings and recommendations at the end of its investigation.

Our Committees intend to continue rigorous oversight of this issue, and we may hold additional hearings at the conclusion of your investigation.

If you have any questions regarding this request, please contact David Leviss with the House Committee on Energy and Commerce staff at (202) 226-2424 or John Williams with the Senate Commerce Committee staff at (202) 224-1300.

The Honorable John Bresland  
May 4, 2009  
Page 3

Thank you again for your work on this investigation.

Sincerely,



Henry A. Waxman  
Chairman  
House Committee on Energy and Commerce



John D. Rockefeller, IV  
Chairman  
Senate Committee on Commerce, Science, and  
Transportation



Bart Stupak  
Chairman  
House Committee on Energy and Commerce  
Subcommittee on Oversight and  
Investigations



Edward J. Markey  
Chairman  
House Committee on Energy and Commerce  
Subcommittee on Energy and the  
Environment

cc: The Honorable Joe Barton  
Ranking Member  
House Committee on Energy and Commerce

The Honorable Kay Bailey Hutchison  
Ranking Member  
Senate Committee on Commerce, Science, and  
Transportation

The Honorable Greg Walden  
Ranking Member  
House Committee on Energy and Commerce  
Subcommittee on Oversight and  
Investigations

The Honorable Fred Upton  
Ranking Member  
House Committee on Energy and Commerce  
Subcommittee on Energy and the  
Environment